



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

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JUN 23 2011

Coleen Sullins
Director
Division of Water Quality
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Ms. Sullins:

The U. S. Environmental Protection Agency received two revisions to *15A NCAC 2B Surface Water and Wetlands Standards, Section .0300 Assignment of Stream Classification* submitted to the EPA for review by letter, dated March 29, 2011, and received on April 4, 2011. These revisions consist of the addition of the High Quality Water (HQW) and the Outstanding Resource Water (ORW) supplemental classification to segments of the Upper Catawba River and the North Fork New River basins, respectively. The list of affected segments is enclosed.

The public hearing for the Upper Catawba River HQW revision was held on January 25, 2010, with an effective date of September 1, 2010. The public hearings for the North Fork New River ORW were held on March 16, 2010, with an effective date of December 1, 2010. A certification was included in this submission from the North Carolina Attorney General, dated March 8, 2011, stating that these revisions were duly adopted pursuant to State law and are valid and enforceable in the State of North Carolina. In accordance with 40 CFR Section 131.21(c), new and revised State and Tribal water quality standards are not effective for Clean Water Act (CWA) purposes until approved by the EPA. The EPA approves these revisions as detailed below.

These waterbodies will retain their existing primary and supplemental classifications of Class C and Class C Trout for the Upper Catawba River and Class C+, Class C+ Trout and C Trout HQW for the North Fork New River.

The North Carolina Division of Water Quality (DWQ) conducted thorough field work and a review of all relevant information and data and concluded that the existing uses of the listed segments of the Catawba River and the North Fork New River meet the criteria for HQW and ORW as described below.

Upper Catawba River From June through October 2007, the DWQ's Biological Assessment Unit conducted benthic macroinvertebrate studies of 21 streams in the Upper Catawba River Basin. Seven of those streams resulted in a water quality rating of "Excellent." A biological assessment with an "Excellent" rating qualifies a waterbody for the HQW designation (*15A NCAC 02B .0101(e)(5)*). Under North Carolina's water quality standards, the HQWs are a subset of waters with quality higher than the minimum Class C standards. North Carolina's Antidegradation Policy states that the existing uses and the water quality to protect such uses shall be protected by properly classifying surface waters and having standards to protect these uses (*15A NCAC 02B .0201(b)*). The Policy also states that the State "...shall not allow degradation of the quality of High Quality Waters below the water quality necessary

to maintain existing and anticipated uses for those waters.” Those provisions are consistent with the federal antidegradation regulations.

North Fork New River Under North Carolina’s water quality standards, ORWs are a special subset of HQWs with water quality above the minimum Class C requirements. To qualify as an ORW, a waterbody must be rated as “Excellent” based on physical, biological or chemical assessments and must also be of exceptional state or national ecological or recreational significance. The Division’s Biological Assessment Unit reported “Excellent” ratings at 20 sites in the North Fork New River watershed during assessments conducted in 2008. The North Carolina Natural Heritage Program ranked the River and its tributaries as state significant aquatic habitat. Multiple aquatic species considered by the State to be of Special Concern or Significantly Rare have been found in this watershed. The State documented the presence of brook trout in the watershed, which are very sensitive to changes in dissolved oxygen, temperature and turbidity. There were also documented reports of the presence of the giant hellbender salamander, a federal species of concern, on Big Horse Creek. The presence of brook trout and the hellbender salamander are indicators of excellent water quality.

In response to concerns raised during the public hearing, North Carolina revised the original proposal to adopt the HQW supplemental classification, rather than ORW, for the following waters:

- Buffalo Creek,
- A portion of the North Fork New River from the confluence of Buffalo Creek to the confluence of Big Horse Creek,
- A portion of Big Horse Creek from the confluence of the North Fork New River to the confluence of the Little Horse Creek and,
- Old Field Branch

This will allow for the State to consider allowing new or expanded wastewater dischargers in the future to allow for growth in the area. It is noted that these waterbodies are all located below the areas where the brook trout and the hellbenders were found. This rule also requires all non-ORW waterbodies in the North Fork New River watershed to comply with the HQW provisions in order to protect the ORW waters.

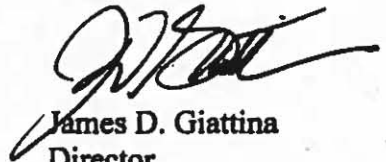
North Carolina’s Antidegradation Policy states that the existing uses and the water quality to protect such uses shall be protected by properly classifying surface waters and having standards to protect these uses (*15A NCAC 02B .0201(b)*). This policy, which incorporates the EPA’s antidegradation regulations by reference, states that the quality of waters determined to be ORW “...shall be maintained such that existing uses, including the outstanding resource values of said Outstanding Resource Waters, shall be maintained and protected.” The requirements specified in *15A NCAC 02B .0225 Outstanding Resource Waters*, as well as additional referenced requirements (*15A NCAC 04B .0124 Design Standards in Sensitive Watersheds*, *15A NCAC 02H .1007 Stormwater Requirements: ORWs*, and *15A NCAC 02N .0301 Performance Standards for New USTs*) will now apply to the North Fork New River watersheds.

The EPA has determined that the Upper Catawba River and the North Fork New River revisions are consistent with the federal water quality standards regulations at 40 CFR Part 131 and the CWA. In accordance with Section 303(c) of the CWA and the implementing regulations at 40 CFR Part 131, the EPA is approving both of these revisions. In accordance with 40 CFR 131.21(c), the revised State water body classifications are now considered effective for CWA purposes.

North Carolina continues to excel as a Regional and National leader in the practice of upgrading water bodies to the highest attainable use and is commended for the recognition and protection of HQWs and ORWs. The studies conducted by the Environmental Services Section's Biological Assessment Unit as part of these revisions were outstanding. The EPA notes that North Carolina DWQ staff and management revised its public hearing practices for use designation reviews to allow for much more opportunity for questions and answers and extended discussions. These new procedures allowed staff more time to discuss the changes with interested parties and affected landowners. In this instance, the Hearing Officer revised the final recommendation for the North Fork New River to directly reflect concerns from the public. North Carolina's commitment to public engagement is well appreciated by the EPA.

Should you have questions, please feel free to contact me at (404) 562-9470, or have your staff contact Lisa Perras Gordon at (404) 562-9317.

Sincerely,



James D. Giattina
Director
Water Protection Division

Enclosure

